

December 9 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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Attorneys for Defendants/Appellants

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 09-0602

JOSEPH T. BERLIN and MARTHA M. BERLIN,

Plaintiffs and Appellees,

-v-

MAGNOLIA ENTERPRISES, LLC, COLBERT P. HOWELL, BARBARA J. HOWELL, NORTHWEST ACCEPTANCE CORP., BARBARA JEAN HOWELL as TRUSTEE of the REVOCABLE INTERVIVOS VIRGINIA-BELL NEILSON TRUST, and DENNIS DeVAR NEILSON,

Defendants and Appellants.

AMENDED NOTICE OF APPEAL

COPY

COME NOW, the Defendants and Appellants, Magnolia Enterprises, LLC, Colbert P. Howell, Barbara J. Howell, Barbara Jean Howell as Trustee of the Revocable Intervivos Virginia-Bell Neilson Trust, and Dennis DeVar Neilson, by and through their respective counsel of record, William K. VanCanagan, of the law firm of Datsopoulos, MacDonald & Lind, P.C., and David H. Bjornson, of the Bjornson Law Offices, P.C., pursuant to this Honorable Court's *Notice Requiring Filing of Amended Notice of Appeal or Cross-Appeal*, and hereby respectfully provide the following:

NOTICE is given that the above-named Appellants who are the Defendants in that cause of action filed in the Fourth Judicial District, in and for the County of Missoula, as Cause No. DV-08-1552, hereby appeals to the Supreme Court of the State of Montana from the final judgment or order entered in such action on the 5th day of October, 2009.

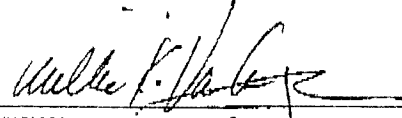
THE APPELLANTS FURTHER CERTIFY:

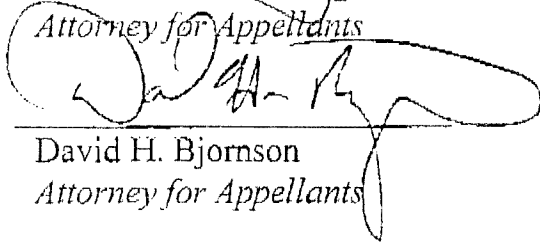
1. That this matter is subject to the mediation process required by M.R.App.P. 7. The money judgment being sought is not less than \$5,000.
2. That this matter is an appeal from an order certified as final under M.R.Civ.P. 54(b). A true copy of the District Court's certification order is attached hereto as "**Exhibit A**".
3. That all available transcripts of the proceedings in this cause involving the issues appealed have not been ordered from the court reporter

contemporaneously with the filing of this notice of appeal. Appellants have complied with the provisions of M.R.App.P. 8(3) contemporaneously with the filing of this Amended Notice of Appeal.

4. That a copy of the notice of appeal has been contemporaneously filed in the office of the Clerk of the District Court and served by mail on all attorneys of record and on all parties not represented by an attorney.

DATED this 8th day of December, 2009.



William K. VanCanagan
Attorney for Appellants

David H. Bjornson
Attorney for Appellants

CERTIFICATE OF SERVICE

I, the undersigned, an employee of Datsopoulos, MacDonald & Lind, P.C., hereby certify that a true and correct copy of the foregoing was mailed or faxed, postage prepaid, this 8th day of December, 2009, to the following:

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By: 